

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

FEB 13 2015

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

JAMES W. MCDORMACK, CLERK
DEPUTY CLERK

JAMES ADRIAN JOHNSON,

Plaintiff,

vs.

**DAVID PAGAEV,
AMIR CHOSHOV, and
IRISTON, INC.,**

Defendants.

CIVIL ACTION NO.

4:15-cv-93-sww

This case assigned to District Judge Wright
and to Magistrate Judge Deere

JURY DEMANDED

ORIGINAL COMPLAINT

Plaintiff James Adrian Johnson files this Original Complaint complaining of and against Defendants David Pagaev, Amir Choshov, and Iriston, Inc.

A. PARTIES

1. Plaintiff, James Adrian Johnson, is an individual who resides in Ore City, Texas.
2. Defendant, David Pagaev, is an individual and a resident of the State of California whose address is 615 W. Milford #104, Glendale, California 91203. Defendant David Pageav may be served with process by serving the Arkansas Secretary of State pursuant to the Arkansas Nonresident Motorist Act. A.C.A. § 16-58-121.
3. Defendant, Amir Choshov, is an individual and a resident of the State of Illinois whose address is 320 S. Beau Drive, Unit 5, Des Plaines, Illinois 60016. Defendant Amir Choshov may be served with process by serving the Arkansas Secretary of State pursuant to the

Arkansas Nonresident Motorist Act. A.C.A. § 16-58-121.

4. Defendant, Iriston, Inc., is a corporation organized and existing under the law of the State of Illinois, with its principal place of business at 836 S. Arlington Heights Road, Unit 309, Elk Grove Village, Illinois 60007. Defendant Iriston, Inc. may be served with process by serving the Arkansas Secretary of State pursuant to the Arkansas Nonresident Motorist Act. A.C.A. § 16-58-121.

B. JURISDICTION & VENUE

5. The Court has jurisdiction over the lawsuit under 28 U.S.C. ' 1332(a)(1) because Plaintiff and Defendants are citizens of different states and the amount in controversy exceeds \$75,000.00, excluding interest and costs. Venue is proper in this district under 28 U.S.C. ' 1391(a)(2) because a substantial part of the events or omissions giving rise to this claim occurred in this district.

6. Furthermore, Plaintiff would show that Defendants David Pagaev, Amir Choshov, and Iriston, Inc. engaged in activities constituting business in the state of Arkansas, and further, consented to jurisdiction in the State of Arkansas by operating its motor vehicles on the streets and highways within the State of Arkansas pursuant to the Arkansas Nonresident Motorist Act.

C. FACTS

7. On September 9, 2013, Plaintiff James Adrian Johnson was driving an 18-wheeler truck traveling east on Interstate Highway 40 in Prairie County, Arkansas. Defendant David Pagaev was also driving an 18-wheeler truck east on Interstate Highway 40 traveling behind

Plaintiff. Mr. Pagaev was working for Defendant Amir Choshov and/or Defendant Iriston, Inc at the time of this incident. Suddenly and without warning, David Pagaev's vehicle rear-ended Plaintiff's vehicle. Plaintiff's vehicle then proceeded to strike a vehicle in front of him, crossed both lanes of traffic, and struck the impact cable which separates the east and west bound lanes of traffic. As the result of the collision, Plaintiff sustained injuries. Plaintiff's damages are in excess of the minimum jurisdictional requirements of this Court.

D. CAUSES OF ACTION

8. Plaintiff alleges that on the occasion in question Defendant David Pagaev was negligent by (a) failing to control his speed, (b) failing to timely apply his brakes, (c) failing to keep a proper lookout, (d) rear-ending Plaintiff, and (e) other acts of negligence, all of which were a proximate cause of the crash between the two 18-wheelers. Said negligence resulted in Plaintiff's damages and injuries.

9. Plaintiff further alleges that at all times relevant hereto Defendants Amir Choshov and/or Iriston, Inc. negligently entrusted Defendant David Pagaev in operating their truck and failed to provide or ensure Pagaev was trained educated and possessed the requisite skill, education and training to operate its vehicle as well as the appropriate credentials.

E. RESPONDEAT SUPERIOR

10. Plaintiff alleges that at all times material to this cause of action Defendant David Pagaev was acting as an employee and/or agent of Defendants Amir Choshov and/or Iriston, Inc. Defendants Amir Choshov and/or Iriston, Inc. are, therefore, vicariously liable for the negligent acts and omissions of Pagaev under the doctrine of *Respondeat Superior*.

F. DAMAGES

11. As a result of the foregoing negligence, Plaintiff has sustained injuries to his body generally. Plaintiff, therefore, is entitled to recover the following:

- (a) Physical pain and mental anguish in the past and future;
- (b) Lost earnings;
- (c) Lost earning capacity in the future;
- (d) Physical impairment in the past and future; and
- (e) Medical expenses in the past and future.

Plaintiff's damages exceed the minimum jurisdictional requirements of this Court.

G. PRE-JUDGMENT AND POST-JUDGMENT INTEREST AND COSTS

12. Plaintiff sues for pre-judgment and post-judgment interest at the maximum rate allowed by law. Plaintiff also requests costs of court.

H. JURY DEMAND

13. Plaintiff demands a jury trial.

I. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff asks that the Court issue summons for Defendants to appear and answer, and that the Court sign a final judgment against Defendants and award Plaintiff the following:

- (a) Actual damages within the jurisdictional limits of this Court;
- (b) Pre and post-judgment interest at the maximum rate allowed by law;
- (c) Court costs; and
- (d) All other relief, in law and in equity, to which Plaintiff may be entitled.

Respectfully submitted,

DUNN, NUTTER & MORGAN, L.L.P.

3601 Richmond Road

Texarkana, Texas 75503-0716

Telephone: 903-793-5651

Telecopier: 903-794-5651

Email: wldunn@dnmlawfirm.com

By: /s/ Winford L. Dunn, Jr.

Winford L. Dunn, Jr.

ABA#67016

ATTORNEY FOR PLAINTIFF